

DETAILED ACTION

1. The remarks and amendments filed 23 June 2010 have been entered. Claims 1-2, 4, 6-8, 10-12, 17, 21-26, 28, 31-37, 56-58, 60-90, and 93-104 are pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 June 2010 has been entered.

Election/Restrictions

3. Claims 1 and 82 are allowable. The election-of-species requirement between antibodies that bind different regions of A β , as set forth in the Office action mailed on 29 September 2000, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 25-26 and 28, directed to antibodies which bind specific epitopes, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim. As a courtesy to applicant claims 56-58, 60-65, 67-71, and 73 are also no longer withdrawn. However, claims 33-34, directed to methods comprising administering nucleic acid, remain withdrawn from consideration because they do not require all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

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4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Rosemarie Celli on 10 November 2010. Changes to claim 25 were discussed in a separate conversation on 12 November 2010.

5. The application has been amended as follows:

In the claims:

Cancel claims 33-34, 66, 72, and 74-81.

In claim 25, delete "of claim 9" and replace with -- of claim 1 --

In claim 57, delete "10⁷ M-1" and replace with -- 10⁷ M⁻¹ --

Claim 65 has been re-written as follows:

The method of claim 35, further comprising administering an additional dosage of antibody if the level of antibody in the blood of the patient has decreased.

In claim 69, delete "claims" and replace with -- claim --

Claim 73 has been re-written as follows:

The method of claim 65, wherein a further dosage of antibody is administered if the level of antibody in the blood of the patient has declined to baseline levels that were present in the blood before administration of the antibody.

In claim 88, line 2, delete "the human" and replace with -- a human --

In claim 89, line 2, delete "the humanized" and replace with -- a humanized --

In claim 90, line 2, delete "the chimeric" and replace with -- a chimeric --

Add the following new claims:

105. The method of claim 82, wherein the antibody binds to an epitope within residues 1-28 of A β .

106. The method of claim 82, wherein the antibody binds to an epitope within residues 1-10 of A β .

107. The method of claim 82, wherein the antibody binds to an epitope within residues 1-5 of A β .

108. The method of claim 82, wherein the antibody specifically binds to A β peptide in an amyloid deposit.

110. The method of claim 82, wherein the antibody specifically binds to A β in dissociated form with a binding affinity of at least 10^7 M $^{-1}$.

Support for new claims 105-107 can be found in original claims 25-26 and 28, for example. Support for new claim 108 can be found in original claims 1, 3, and 9, for example. Support for new claim 110 can be found at p. 14 lines 17-24 of the specification as originally filed.

6. The following is an examiner's statement of reasons for allowance: The claims are limited to administer antibodies of human isotype IgG1. Applicant persuasively argues that the reference by Bard et al. 2003 (Proc Natl Acad Sci USA 100:2023-2028, of record) indicates that antibodies of mouse isotype IgG2a, which most closely corresponds to human IgG1, show unexpectedly high efficacy when administered to an animal model of Alzheimer's disease. In particular, the reference indicates that IgG2a is more effective than antibodies of other isotypes in decreasing A β peptide levels in culture (p. 2026 first complete paragraph) and in decreasing plaque levels in vivo (p. 2026 second column). Notably an antibody of mouse isotype IgG1 is less effective than antibodies of IgG2a isotype in vivo even though the IgG1 antibody had has higher avidity for aggregated A β and plaques. Thus the efficacy of IgG2a antibodies is unexpected.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel E. Kolker whose telephone number is (571)272-3181. The examiner can normally be reached on Mon - Fri 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Stucker can be reached on (571) 272-0911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel E Kolker/
Primary Examiner, Art Unit 1649
November 12, 2010